

## **REMARKS**

In a final Office Action mailed December 12, 2007, claims 1-8, 10-20, 23-25, 27, 29, and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over by U.S. Patent No. 5,818,510 by Cobbley in view of in view of U.S. Patent Application Publication No. 2003/0011684 by Narayanaswami, et al. (hereinafter “Narayanaswami”). Claims 21 through 22 were rejected under 35 USC § 103(a) over Cobbley in view of Narayanaswami and further in view of U.S. Patent No. 5,822,537 to Katseff, et al. (hereinafter “Katseff”). In a Decision On Appeal dated March 23, 2010 (“the Decision”), the Board of Patent Appeals And Interferences (“the Board”) affirmed-in-part sustaining the rejections of claims 1-8, 10-20, 23-25, 27, 29 and 32, but finding error in the rejections of claims 21 and 22. Applicant respectfully traverses and requests reconsideration.

As an initial matter, Applicant notes that independent claims 1, 8, 13, 19, 25, 27 and 29 have been amended above to more accurately state that which Applicant regards as his invention. In particular, claims 1, 8, 13, 19, 25, 27 and 29 have been amended to more clearly recite that: (i) the media file is recorded by a media recording device; (ii) the media indexing beacon and the subject are proximate each other and (iii) the index information is descriptive of the subject. Support for the first limitation may be found, for example, in paragraph 0011 of the instant specification. Support for the second limitation may be found, for example, in paragraphs 0002 and 0008 of the instant specification. Support for the third limitation may be found, for example, in paragraph 0009 of the instant specification. Furthermore, the limitation of “an event indicator that a specific event is occurring” has been deleted from each of these claims and, where applicable, added back to the dependent claims where it was originally recited, e.g., claims 7, 12 and 17. Other ones of the dependent claims (i.e., claims 7, 10, 11, 14, 15 and 20-24) have been

amended to recite proper antecedent basis in light of amendments to the independent claims, and claim 3 has been amended to correct a typographical error. No new matter has been added by virtue of any of these amendments. For the reasons set forth below, Applicant respectfully submits that the instant claims are in suitable condition for allowance.

Claims 1-8, 10-20, 23-25, 27, 29, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cobbley in view of in view of Narayanaswami. As noted by the Board, Cobbley recites a “broadcast source 105” that transmits broadcast information including indexing information that is separate from video/audio information to a “broadcast receiver 110.” (Decision, page 9) Cobbley further recites an “index capture device 112” that operates upon only the indexing information and a “capture device 115” that operates only upon the video/audio information. (Id.) Equating Cobbley’s “cache manager 125” with the previously-recited “media capture device” of the instant claims, the Board notes that the cache manager 125 receives the indexing information from the index capture device 112 and the “media file” (i.e., the video/audio information) from the capture device 115 and thereafter associates the media file with the indexing information. (Decision, pages 9 and 10)

With this interpretation in mind, Applicant first notes that the independent claims have all been amended to recite a “media recording device” that records a subject in a media file. As commonly used, “recording” means “to register (sound or images) in permanent form by mechanical or electrical means for reproduction.” (American Heritage Dictionary of the English Language, 4th Ed. (2006), page 1461.) This meaning in the context of the instant application is reinforced by the particular examples of a recording device set forth therein, e.g., a digital camera, video recorder and audio recorder recited in paragraphs 0008 and 0029 of the instant specification. Given this understanding, Applicant respectfully submits that the Board’s

interpretation of the cache manager 125 as being equivalent to the presently-claimed media recording device is untenable. To the extent that Cobbley clearly describes his cache manager as a large, temporary storage device for potential playback of received broadcast signals (Cobbley, col. 7, line 25 – col. 11, line 4)—i.e., in a manner commonly understood to be associated with operation of a “cache”—Applicant respectfully submits that one having ordinary skill in the art would not interpret a cache manager as being equivalent to a media recording device. For this reason, Applicant submits that the Board’s reliance on Cobbley is no longer valid in light of the now-amended independent claims.

Furthermore, the independent claims have been amended above to recite that the media indexing beacon and the subject are proximate each other. In this instance, “proximate” would at least be understood by one having ordinary skill in the art to mean within the coverage of a short range transmitter (see, e.g., paragraph 0012; see also paragraph 0028 reciting use of well-known short range wireless communication standards such as Bluetooth and IEEE 802.11). In contrast, at best, Cobbley teaches the use of traditional, wide-area broadcast systems such as television or radio broadcasts. (Cobbley, col. 3, lines 31-47) Even if one were to somehow interpret Cobbley’s wide-area broadcast transmissions as being the equivalent of a short range wireless transmission system, Cobbley is completely silent with respect to the limitation that the subject and media indexing beacon be proximate each other. For this reason, Applicant once again submits that the Board’s reliance on Cobbley is no longer valid in light of the now-amended independent claims.

Further still, Applicant notes that the independent claims have also been amended to recite that the claimed index information is “descriptive of the subject”, in accordance with the preferred embodiment noted by the Board. (Decision, page 10) In this regard, the Board has

noted that Narayanaswami teaches a capture device (i.e., a camera) that is capable of obtaining “positional, temporal and date information” related to a subject recorded in a media file, i.e., GPS coordinates and time stamp information at the time a media file is created. While such data is arguably “related to” to a subject recorded in a media file, it is at best “descriptive of” no more than the circumstances prevalent at the time the subject was recorded in media file, but cannot be said to be descriptive of the subject itself, i.e., “the semantic content being captured in the media file.” For this reason, Applicant submits that the Board’s reliance on Narayanaswami is no longer valid in light of the now-amended independent claims.

With regard to claims 2-7, 10-12, 14-18, 20-24 and 32, Applicant notes that these claims are dependent upon respective ones of independent claims 1, 8, 13, 19, 25, 27 and 29. Because claims 2-7, 10-12, 14-18, 20-24 and 32 incorporate the limitations of claims 1, 8, 13, 19, 25, 27 and 29, Applicant respectfully submits that Cobbley alone does not anticipate, and that the combination of Cobbley in view of Narayanaswami does not render obvious, claims 2-7, 10-12, 14-18, 20-24 and 32 for at least the reasons presented above with regard to the independent claims. Therefore, Applicant respectfully submits that claims 2-7, 10-12, 14-18, 20-24 and 32 are in suitable condition for allowance.

Claims 21 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cobbley in view of Narayanaswami and in further view of Katseff. Applicant notes that claims 21 and 22 are dependent upon independent claim 19. Cobbley in view of Narayanaswami fails to teach each and every limitation of independent claim 19, as discussed above, and this failure is not remedied by the additional teachings of Katseff. Applicant therefore respectfully submits that the combination of Cobbley in view of Katseff fails to establish prima facie obviousness of claims 21 and 22, which claims are therefore in condition for allowance.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request reconsideration and withdrawal of all presently outstanding rejections. Thus, prompt and favorable consideration of this response is respectfully requested. If it is believed that personal communication will expedite prosecution of this application, Applicants' undersigned representative may be contacted at the number below.

Respectfully submitted,



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